88-877(1)

Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

O. R. KARST

Plaintiff and Appellant,

V

JOHN WOODS

Defendant and Appellee.

ON APPEAL FROM THE U. S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JURISDICTIONAL STATEMENT

Of Counsel :

O. R. KARST

PRO SE

910 Pierce Street

Albany, Ca. 94706

Tele-415-526-8500

TABLE OF CONTENT

I. The Ouestion presented	I - 7
2. Table of authorities	7 - 8
3. Reference to opinions delivered	8 - I2
4. Jurisdiction is Invoked	I2 - I4
5. Judgment sought to be reviewed	I4 - I5
6. The statutory provision	I6
7. Cases sustain jurisdiction	I6 - I8
8. Constitutional provision	I9 - 2I
9. Statement of the case	2I - 33
I0. Plenary consideration	34 - 38
II. The Final Ouestion	38 - 40

THE QUESTION PRESENTED

The first Question presented in this case, is that of jurisdiction to a trial, that the defendant had made an appearance in superior court and with this appearance established as a matter of right, the states jurisdiction for a trial under the states constitution statutes and the jurisdiction of a trial under the federal provisions of the constitution,5th,7th,I4th admen. federal rules of law

The second Question presented in this case, is the jurisdiction to be noticed, that defendant had made an appearance in court, that under the jurisdiction of the state constitutional laws, statutes, state law, that a defendant shall be noticed prior to his default hearing, that the state court deprieved the defendant of due process of law,eoual rights, properity rights and did not uphold the constitution of the U.S.

3 rd Question presented; Is the jurisdiction

OF RELIEF FROM a defective defendant,s default default judgment, that was granted in a state court without jurisdictin to grant this default because the defendant had not been noticed to appear as provided under the states statutes c.c.p. section 422, 43I, 453, 473, and for relief under the jurisdiction of federal law, F.R.C.P. rule 55 (c) (2), Rule 60 (b) (4).

4 th Question presented: Is the jurisdiction of defendant,s appeal, well grounded, well settled on fundamental jurisdiction preserved and protected, that state courts shall grant an appeal for relief from a default, default judgment, that was granted at a un noticed hearing, under this state,s constitution, statutes, laws and rules, that in this case all of this states courts denied defendant,s appeal of this defective default, default judgment, thereby this state court,s deprived this citizen due process of law EQual rights under state and federal const.,statutes, laws.

5 th Question presented: Is that of the jurisdiction that mandates this state courts to adminstrate its state law, to uphold this states constitution, statutes, law and rules as not to deprieve due process of law, that in this case defendant,s "Petition of mandate" in which he mandates that this state,s courts to adminstrate state law, under their mandated jurisdiction, and that in this case, all of this states courts have denied defendant,s "Petition of mandate" as filed with in their court, thereby this state, their state courts have deprieved this defendant of his jurisdiction to this states const. law, statutes, law and rules, and this states failure to uphold the constitution of the United States.
6 th Question presented; Is that of jurisdiction of this defendant to seek relief from deprieved justice from this states denial to administrate its justice, that the defendant in this case has jurisdiction to seek relief

in U. S. District court because he has been denied, and he can not enforce state rights state law providing for EQual rights of citizens of the United States, under the provision of the const. 5th, 7th, I4th, admend. federal statutes, laws and rules.

7 th Question presented; Is that U.S. District court shall have jurisdiction, shall administrate the law of any citizen who has been denied or cannot enforce in such state court, any law providing for his EQual jurisdiction provided under state and federal laws, that the jurisdiction provided to the U.S. District court is well grounded under the U.S. Const. 5th, 7th, I4th admend. federal rules of civil practice rule 55 (c) (2), 60 (b) (4) title 28 U.S.C. section I443, title 42 U.S.C. section I982, I983, I988, that in this case U.S. District court failed to up hold the const., const. admend. federal statutes, rules, failed to enforce this states jurisdiction to admin-

istrate its laws, failed to maintain the uniformity of well settled Question of law, failed to administrate justice.

8 th Question presented: Is that U.S. Court of appeals shall have jurisdiction, shall administrate the laws, to prevent any U.S. District court, state courts from deprieving a citizen who has been denied his jurisdiction or who cannot enforce EQual rights, due process of law, EQual protection, property rights state or federal const. rights, statutes, law and rules, that the defendant,s jurisdiction is well grounded under U.S. Const. 5th, 7th, I4th admend, F.R.C.P. rule 55 (c) (2), 60 (b) (4), title 28 U.S.C. section I443, title 42U.S.C. section I982, I983, I988, that in this case U.S. Court of appeals failed to uphold the const. const. admend. federal statutes, federal rules, failed to enforce a states jurisdiction to administrate its laws, failed to maintain the uniformity of decision, well

settled Question of law, failed to administrate justice

9 th Question presented: Is the jurisdiction earned to the right of relief from a injury of the defendant,s defective default, default judgment, defendant,s right to a trial in this state court, right of a party to but not a party of, right to the venue of defendant,s court, the court in which defendant resides, the jurisdiction under the provision of federal state laws and rules.

IQ th Ouestion presented: Is that the jurisd-isdiction of the U.S. Supreme court is well preserved and protected in this case, that the jurisdiction of the U.S. Supreme court is needed to maintain the uniformity of the laws, for a trial, due process of law, prope-rty rights, EQual protection, relief from in-justice, default. default judgment, party to but not a party of, to secure the uniformity

of this states unconstitutional proceedings, adbridged rights, trial, due process, property rights, to secure the federal statutory bases for federal jurisdiction, to administrate the law.

Rule I5. I. (b) Foot- note "Reference is hereby made, that earlier documents contains the caption of the case in this court and the names of all such parties sought to be reviewed by this court. in addition to the proceedings are party to but not a party of.
(a) Mrs Kathleen M. Karst, 9I0 Pierce ST. Albany, Ca. 94706, tele 4I5-525-9472-unl."

Rule I5. I. (c) TABLE OF AUTHORITIES :

5 th Constitutional Admendment

"Wright-Miller-Cooper-fed practice and procedure jurisdiction 2d section 3522,2303."

7 th Constitutional Admendment

"Wright-Miller-fed practice and procedure civil sections 2303, 23I7, 2322, 2485, 2522."
"72 yale l.j. 655, (I963)"
"74 harv l. rev. II76"

I4 th Constitutional Admendment

"Wright-Miller kane-practice and procedure civ 2d sections 2769, 28I4.

F. R. C. P. Rule 5

"5 am-jur, alr digest section 2-5."

F. R. C. P. Rule 55 (c) (2)

"5 am jur 2d sec I4, 6 am jur 2d section I4, 27 alr fed 620-625, 29 alr fed 7 sec 8,a 6 5I alr 2d 830-837,842. 20 alr section II79, 75 alr 3d sect 89I, I6 alr 3d 27I."

F. R. C. P. Rule 60 (b) (4)

"8 alr 3d I27I-I272. I5 alr fed I93-203. 46 am jur 2d sect 708-7I8. 47 am jur 2d sect II52 II78, II79. 85 alr 442. 59 alr fed 83I. I5 alr 3d 586. 8I alr 2d 537.

REFERENCE TO OPINIONS DELIVERED:

(I.) In that U.S.District court,s opinion in this case, that this court as not having any jurisdiction in the subject matter, dismissing the case with prejuice, the Question presented to this district court was of relief from a state court,s default, default judgment granted againts the defendant whom had not been noticed, and therefore as a matter of right to his jurisdiction for relief was now vested in and this district court, preserved and protected, the Question to district court is

futher inlarged to the defendant,s right to a trial, due process of law, EQual protection and to his property rights, that district court,s opinion of dismissal of the case is in fact an abuse of discretion, to administrate the law, a failure to uphold the const. as to deprieve this defendant of all of his constitutional protection provided him, as to deni a trial, relief from the infraction of a default, due process of law, as not to maintain the uniformity of well settled Question of law, as to deceive the systerm of justice.

(2.) In that U.S.Court of appeals, in the 9th circuit holding to the opinion in U.S. V Hooton 693,f 2d 857, as to summarily affirmed this case, does not maintain the uniformity of the Question of this appeal, the Question of the Hooton case is criminal precedent, a reQuest for early termination of his probation obviously controlled by his

sentence, as to summarily affirmed, the Question of this appeal before this court of appeals is one of a differant nature, good cause showing, and with ample pleadings with facts material to the appeal,s Question of relief from a void default, default judgment, of a trial, in which the defendant had jurisdiction to seek this relief from the U.S.District court because he was denied and was unable in state court to enforce any of the laws providing for this relief, the Question of this opinion in this court of appeals is futher manifest as an abuse of descretion, a failure to administrate justice, unaformity of decision of campanion cases.

(3.) In reference to this states superior court, the court of the first apperance, which holds to the opinion, that it can grant a default, default judgment againts the defendant whom was not noticed to appear at his default

hearing, this court,s opinion does not lend its self to the facts, of a trial, EQual protection, due process of law, property rights, the Question before their was unaformity of decision, upholding the constitutiom, existince of legal rights, to administrate the law, right to a trial, issue of the state and federal constitution, statutes, law and rules, this court failed the Question of the case before them as to abuse of descretion contary to the law, to deceive the systerm of justice.

(4.) In reference to this state,s appellate courts, which hold to the opinion, that it will not grant relief from a void default, will not let this case go to a trial, will not administrate their state laws, will not uphold the state and federal constitution, the state appellate courts abandoned systerm of justice, lends its self to the facts of defendant,s Question, that he has been denied

and cannot enforce in the courts of such state a right under any law providing for the EQual civil rights of citizens of the United States due process of law, right to a trial, as a matter of law, as a Question of law, with jurisdiction now seeking particular federal Question is preserved for you, properly presented, as in companion cases.

A CONCISE STATEMENT OF THE GROUNDS ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED AND THE NATURE OF THE PROCEEDING, THE STATUTORY BASES FOR FEDERAL JURISDICTION.

(I) The jurisdiction of the U.S.Supreme court is invoked in this case, to maintain the uniformity of the U.S.Constitution law, of decision companion cases, federal statutory bases of federal jurisdiction, to maintain rights of a trial, justice without prejudice, furtherance of justice, existince of a legal right to uphold the constitution and to administrate its laws, jurisdiction in a case in which a

state has denied any person his statutory law providing him of his right, due process of law, as to have adbridge his rights.

(2.) The implication of this case is a citizen,s jurisdiction to seeking a particular federal Question, right of a trial, right of a trial, right to relief from a void default, due process of laws, EQual protection, property rights, deprived of his states constitutional laws, statutes, laws and rules.

(3.) The statutory bases for federal jurisdiction in this case, is the jurisdiction of any U.S.District court,any U.S.Court of appeals to uphold the right of defendant, a citizen in the jurisdiction of state courts, whom has denied, or cannot enforce in the court of such state, a right under any law providing for EQual rights, due process of law, right to a trial, relief therefrom, a defective default default judgment.

(4.) The bases for federal jurisdiction in

this case, is the statutory jurisdiction under the U.S.Constitution, 5th, 7th, I4th, admend. maintaning uniformity of the law, to a trial, due process of the law, the jurisdictional rights of its citizens.

THE DATE OF THE ENTRY OF THE JUDGMENT OR DECREE SOUGHT TO BE REVIEWED, A REHEARING, DATE THE NOTICE OF APPEAL WAS FILED NAME OF COURT.

(I.) Aug II I988, U.S.Court of appeals, 9th Cir "petition of rehearing"

(2.) June II I987,U.S.Court of appeals 9th Cir

(3.) Oct I I986, Notice of appeal, in the Ct. "U.S.Court of appeals, 9th Cir no.86-2686

(4.) Sept I5 I986,U.S.Dist Ct,nort dist,Ca "No. c-86-3835-efl

(5.) Jan 22 I986, State of CAL Supr Ct "No. a033II2"

(6.) Jan I6 I986 State of Cal Appellate Ct. " No. A033II2"

(7.) Nov 7 I985 State of Cal Appellate Ct. "No. A033II2"

(8.) Sep 24 I985 State of Cal Supreme Ct. "No. A027582"

(9.) Sep I6 I985 State of Cal Supreme Ct. "No. A027582"

(I0) Sep 30 I985 State of Cal Appellate Ct.
"No. A027582"

(II) Sep 25 I985 State of Cal Appellate Ct.
"No. A027582"

(I2) Aug 27 I985 State of Cal Appellate Ct.
"No. A027582"

(I3) Jul 3I I985 State of Cal Appellate Ct.
"No. A027582"

(I4) Jun 8 I984 State of Cal Superior Ct.
"No. I3II22"

(I5) Jun 4 I984 State of Cal Superior Ct.
"No. I3II22"

(I6) Jan I3 I984 State of Cal Superior Ct.
"No. I3II22"

(I7) Dec 30 I983 State of Cal Superior Ct.
"No. I3II22"

(I8) Dec 29 I983 State of Cal Superior Ct.
"No. I3II22"

(I9) Dec I6 I983 State of Cal Superior Ct.
"No. I3II22

THE STATUTORY PROVISION BELEIVED TO CONFER JURISDICTION OF THE APPEAL, AND THE CASES BELIEVED TO SUSTAIN JURISDICTION, TO THE UNITED STATES SUPREME COURT.

(I) The U.S.Constitution article III

(2) The U.S.Const. amends. 5th, 7th, I4 th

(3) Title 28 U.S.C. sections I443, 2I0I (c)

(4) Title 42 U.S.C. sec. I982, I983, I988

(5) F.R.C.P.Rules, 3, 4, 5, 7, 8, 9, II, I7 38, 55, (c) (2) 60 (b) (4)

"cases beleived to sustain jurisdiction; appearance, service, proof of service, trial decision, "with out knowledge"

Edson v Edson I08 mass 590
Harjo v Johnson I87 okla 5 6i I04 p2d 985
Reeder v Marshall 2I4 ore I54 328 p 2d 773
Taft v Taft 252 miss 204 I72 so 2d 403
Walker v Hall I76 ga I2 I66 se 757

"set aside default, F.R.C.P.Rule 55 (c) (2)

Anderson v Taylorcraft inc (I96I) dc pa I97 f supp 872
Loranger v Alban 22 nj super 336 92 A 2d 2i cjs 282
Ashley v Hyde 6 ark 92
Coltas v Smith 96 ariz 325 395 p 2d 527
Dalton v Alexander I0 ill ap 2d 273 I35 ne 2d I0I
Murray v Hurst I63 md 48I I63 A I83
Peterson v Millian 70 sd 56 I4 nw 2d 97
Port-Wide con. v Inst ma co. I97I ca3 nj 440 f 2d II95

Reynolds v Birmingham 29 ala app 505 I98 so 360
Roges v Lyle 70 nm 209 372 p 2d 797
Shaul v Colo fuel inc iron co 43 wyo 549 30
p 2d 478
Tweed v Lockston 35 del 474 I67 a 703

"relief from default, default judgment, F.R.C.
P. Rule 60 (b) (4)"

Kem Mar Air v Tolk Air I952 dc md I2 frd 399
Loranger v Alban 22 nj super 336 92 a 2d 2I
cjs 282
Phoenix metal cor v Roth I955 79 ariz I06 284 645
Ross v White 46 ariz 304 50 p 2d I2
Salter v Bd of Com of Jeff co I952 I26 col 39 246
Shannon v Norman bl inc ri I969 256 a2d 2I4
White v Crandall I05 fla 70 I37 50 272 I43 80 87I
Yeast v Fleck I942 58 ariz 469 I2I p2d 426

"party to but not a party of title 28 U.S.C.
section I665"

Adams v adams 5I nh 388
Carpenter v Carpenter 244 nc 286 93 se 2d 6I7
Logsdon v Logsdon 204 ky I04 263 sw 728

"state of California"

Baird v Smith 2I6 cal 408 I4 p2d 749 I932
Crofton v Young 48 cal app 2d 452 II9 p2d
I003 (I942)
Miller v Cortese II0 cal app 2d I0I 242 p2d
(I952)
Winkoven v Winkoven 20I f2d I74 (ca 9 th)

" U.S. District Courts"

N.Y. U.S.District Ct. S.D. New York
Leab v Streit 584 F supp 748 (I984)

Triad v McNell II0 fdr 382 (sd ny) I986

" U.S. Court of Appeals"

D.C. Washington
Austin v Smith ca I962 3I3 f2d 337 II4
Wise v Herzog II4 f2d 486

2nd Circuit

Davis v Musler 7I3 f2d 907 2nd cir I983
Gill v Stolow 240 f2d 669 2nd cir I957

3rd Circuit

Hritz v Woma cp 732 f2d II78 3rd I884
Hutton v Fisher 359 f2d 9I3 3rd cir I966

7th Circuit

Textile v Rentschler 657 f2d 844 7th I98I

8th Circuit

Comm Ca ins co v White line T and S co I94I
ca 8th iowa II4 f2d 946

NEW MEXICO SUPREME COURT

Adams, McGahey v Neill 58 nm 782 276 p2d 9I3

UNITED STATES SUPREME COURT

Bass v Hoagland 338 us *i6 94 L ed 494 70 Sct 57
Hovey v Elliot I67 us 409 42 Led 2I5 S ct 8II
McDonald v Mable I9I7 243 us 90 37 S ct 343
6I Led 608
Winsor v McVeigh 93 us 277 23 Led 9I6

THE CONSTITUTIONAL PROVISION THAT THE CASE INVOLVES, PERTINERT TEXT :

(I) The U.S.Const. Articule III the judiciary

(2) 5th Amend.- due process of law, in part, nor be deprived of life, liberty, or property, without due process of law

(3) 7 th Amend. "civil trial, in part, in suits at common law, where the value in controversy shall exceed twenty dollars, right of trial by jury shall be preserved and no fact tried by a jury, shall be otherwise rexamined in any court of the United States than according to the rules of common law

(4) I4 th Amend. "in part which holds, due process of law, nor shall any state deprive any person of life, liberty, or property, without due process, EQual protection, nor deni to any person within its jurisdiction the EQual protection of the law

(5) U.S.C. Title 28 sections I443, "in part which holds, any of the following civil action, commenced in a state court may be removed by the defendant to his dist rict court of the U.S., against any person who is denied or cannot enforce in the court of such state a right under any law providing for EQual civil rights of citizens of the U.S., for any act under color of authority derived from any law providing for EQual rights, or for refusing to do any on the grounds that would be inconsistent with such law

(6) U.S.C. Title 42 section I982, "which holds, all citizens of the U.S. shall have the same rights in every state, thereof to inherit, purchase, sell, hold and convey real and personal property section I983, for redress in part every person who under color of any statute, or usage of any state subject any citizen, thereof to the deprivation of any right secured by the cinstitution and laws, shall be liable to the party injured in an action at law suit in EQuity or other proper proceeding for redress section I988, proceding in vindiction of civil rights, attorney,s fee, which holds in parts, the jurisdiction in civil matters conferred on district courts by the provisions of this title, for the protection of all persons, in their civil rights, and for their vindication shall be enforced in conformity with the laws, to enforce sections, I98I, I982, I983, I985, I986, the court in its discretion may allow the prevailing party reasonable attorney,s fee as part of costs

(7) Federal rules of civil practice, rule 3. "commenment of action, Rule 4. "process Rule 5. "srvice pleading" Rule 7. "pleadings allowed" Rule 8. "rules of pleadings" Rule 9. "pleading special matters" Rule II. "signing" Rule I7. "parties" Rule 38. "jury trial" Rule 55 (c) (2) "default, setting aside default" Rule 60 (b) (4) "relief from judgment or order, mistake

(8) The U.S.District Court, North Cal Dist.

"local Rules in part "failed to answer summons", "failed to answer the compaint" "not with afidavit" "action in a default" "penalty of perjury"

(9) State of Calif. C.C.P. sections, 473 "in part which holds relief from judgment taken by surprise," "vacating void judgment or order" "set aside an void judgment or order"
section 430 "pleading in civil action"
section 422 "pleading allowed in civil action" "answers allowed"

A CONCISE STATEMENT OF THE CASE CONTAINING THE FACT MATERIAL TO CONSIDERATION OF THE QUESTION PRESENTED:

That the appellant in this case, was the defendant in superior court, the court of the first appearance, that defendant had made an apperance in court, that he had answered the complaint, and was entitled to a trial, the court however granted a motion of default, ordered defendant,s answers stricken without leave to amend, ordered a default judgment entered into the book of judgment, all of the court,s default action was taken at a default hearing in which the defendant had not been

noticed to appear, their being no proof of service, defendant then motioned the court to set aside the default on the grounds, that he had not been noticed to appear, and under Calif. civil practice section 473, which states that the court shall set aside a default taken at an unnoticed default hearing, the court however denied the motion to set aside the default, defendant then appealed to the court on the grounds that he had not been noticed, and that the court shall set aside a default taken at a hearing when the defendant had not been noticed to appear, the court however denied the appeal, defendant next appealed to the state appeals court on the same above stated grounds, the state appellate court dismissed the appeal, defendant next appealed to the appellate court to reinstate the appeal on the above mention grounds, the state appellate court denied to reinstate the appeal, the defendant next appealed to Calif. Supreme Court,

the supreme court denied the petition of appeal, defendant with a petition of mandus, now becoming the plaintiff filed a petition of mandate, to mandate the courts to do the many things now needed to be done, to administrate the law, filed in appellate court, to mandate superior court the court of first appearance which the appellate court denied, next plaintiff filed in appellate court a petition of mandate them selfs to administrate the law, and to do the many things that now need to be done, which the appellate court however denied, plaintiff filed in appellate court to reconsider the petition of mandate, which the appellate court however again denied next plaintiff filed in cailf. Supreme Court the petition of mandate, but some how the Supreme court sent it down to the appellate for judgment, which the appellate court however denied, next plaintiff filed in calif. supreme court again with petition of mandate, the su-

preme court now ruled on the petition to somehow to deni it, next plaintiff filed in the U.S. District court a complaint, and an application to vacate an superior court default, default judgment under F.R.C.P. rules 55 (c) (4), and Rule 60 (b) (4), and the 5 th, 7 th, I4 th, admend. which this district court somehow dismissed with prejudice, next plaintiff as appellant filed his appeal in the U.S. Court of appeals, on the grounds, that district court did not uphold the constitution, did not uphold the jurisdiction to grant relief, where a default was taken under defective justice, and where there was no trial, and the state had adbridged its citizen of due process of law, the U.S. Court of appeals somehow denied the appeal, with summary affirmance granted, next plaintiff as a appellant filed his petition of rehearing in the same U.S. Court of appeals, on the same above named grounds, again the U.S. Court of appeals somehow denied

the petition of rehearing, next appellant, whom was the defendant in superior court of first appearance, now files his appeal to the U.S. Supreme court, on the grounds of the whole case, and to the QUestion presented :

QUESTION NO. (I) :

An concise statement presented to the Question of a trial, that the appellant in this case being the defendant in the court of first appearance, that defendant had made an appearance in the court of first appearance, that and as such and with this appearance was entitled to the jurisdiction of his trial, established as a matter of right under the U.S. const., the 5 th, 7 th, I4th, ademd., the state const, statutes, state and federal laws and rules, that the defendant was not givin a trial, or a decision there from, good cause showing, with ample pleadings, containing the facts material to the consideration of this Question presented on the fundamential Question

of a citizens right to a trial, the way in which the court passed upon it was to strike defendant,s court answers in there entirety without leave to admend, and ordered the defendant in default, at a hearing in which the defendant had not been noticed to appear.

QUESTION NO. (2) :

An concise statement presented to the Question of defendant,s right to be noticed at his default hearing, that the appellant in this case being the defendant in the court of first apperance, that the defendant had made an appearance in court, and as such he shall be noticed prior to the taking of a default, that under jurisdiction of the state const. statutes, state law and rules, state courts shall not depreive a defendant of due process of notice, that the defendant had jurisdiction to be noticed prior to his default hearing, that the defendant was not noticed of his default hearing, that the court order defendant

in default, and ordered a default judgment, that defendant was denied due process of law, good cause showing, with ample pleadings containing the facts material to the consideration of the right to be noticed, the way in which the court passed on it was denial of the relief defendant sought.

QUESTION NO. (3) :

An concise statement presented to the Question of seeking relief from defendant,s defective default, default judgment, that the appellant in this case being the defendant in the court of first appearance now sought to challenge the default, to have this court to set aside the defendant,s default taken at defendant,s non noticed default hearing, good cause showing, with ample pleading, containing the facts material to the consideration of relief to set aside the default, default judgment, appellant now submitted his filed motion to set aside, and with his appeal to set aside, based on the

grounds stated above, and the way upon the court passed upon it was to deni the motion and the appeal.

QUESTION NO. (4) :

An concise statement presented to the Question of defendant,s appeal in the appellate court, and the state supreme court, that the appellant in this case being the defendant in the lower court, now sought to challenge defendant,s defective default, default judgment under the jurisdiction of an appeal, good cause showing, with ample pleadings, containing the facts material to the consideration of the jurisdiction of an appeal, appellant submitted his appeal to the appellate court and to the supreme court, and the way in which the appellate court passed upon it was to somehow deni the appeal, and the supreme court was to somehow deni it.

QUESTION NO. (5) :

An concise statement presented to the Question

of defendant,s Question the jurisdiction of this state courts to administrate the law, to uphold the constitution, state and federal statutes, law and rule, as not to deprieve a citizen of due process of law, EQual protection, uniformity of decision, that the appellant in this case, now sought to challenge defendant,s jurisdiction of his litigation, good cause showing, with ample pleading containing the facts material to the consideration of petition of mandate to the state courts, to now administrate the laws, and to do the many things now needed to be done, appellant submitted his petition of mandate to mandate superior court, appellate court, supreme court, and the way in which the aboved named courts was to somehow deni it.

QUESTION NO. (6) ;

An concise statement presented to the Question of an defendant,s right to his jurisdiction

in any U.S. District court, because he has been denied, or cannot enforce in such state courts, any laws providing for his EQual jurisdiction provided under the U.S. Const., their state const. , state statutes, state law and rules, that no state shall deprieve its citizens of due process of law, EQual protection, and to his property rights, that the appellant in this case now sought to challenge the Question of the jurisdiction of being deprived and denied of state rights with an appearance in a U.S. District court seeking the jurisdiction of a citizen,s right of due process of law, EQual protect, provided under the U.S. Const. preserved and protected in any U.S. Federal court, good cause showing, with ample pleadings, containing the facts material to the consideration of the jurisdiction of the U.S. District court and the way in which the court passed upon it was to deni it.

QUESTION NO. (7) :

An concise statement presented to the Question of any U.S. District court,s failure to uphold the jurisdiction of a citizen,s right to a trial, relief there from, a void default, default judgment, and denied in the state courts that the appellant in this case, had good cause showing, containing the facts material to the jurisdiction of relief from any U.S. District court submitted his application to vacate state superior court,s default, and default judgment, on the grounds under the const. , const. amend. 5th, 7th, I4th, F.R.C.P. rule 55 (c) (2), rule 60 (b) (4), and the way this U.S. District court passed upon it was to somehow dismiss it with prejudice.

QUESTION NO. (8) :

An concise statement presented to the Question of any U.S. Court of appeals failure to uphold the jurisdiction of a citizen,s right to a trial, relief therefrom, a void default,de-

fault judgment, denied and deprived in state courts, now denied and deprived in a U.S. District court, that the appellant in this case, good cause showing, containing the facts material to the jurisdiction of relief from any U.S. Court of appeals, submitted his appeal to the U.S. Court of appeals, on the grounds that U.S. District court had jurisdiction to grant relief under the above stated facts, and the way in which this U.S. Court of appeals was to deni it, not once, but twice.

QUESTION NO. (9) :

An concise statement to the Question presented that the appellant in this case sought to have venue of the court where the defendant resides, good cause showing, and with ample pleadings, he submitted his pleadings for the venue of his court, on the grounds of state statutes, that reQuire the mandate of venue where the defendant resides, and the way in

in which the court passed upon it was to somehow to deni it, That in this case, there exist a party to the case, that is not not a party of, with good cause showing in the pleadings thoughtout, on the grounds, that there is an injured party not a party to, and the way in which the court passed upon it was denial.

QUESTION NO. (IO) :

An concise statement to the Question presented seeking the needed relief from a state seemingly incapble to administrate the laws, plagued by the deficiencies of uniformity of the laws, no trial, due process of law. of adbridged citizens rights, abuse of decreation, violated there own rules, to uphold the Constitution, infraction of the law, not in conformity of law, to have deceived the systerm of justice, that the appellant, good cause showing, containing the facts material to the jurisdiction of the relief sought under this appeal, preserved and protected to this court

A STATEMENT OF THE REASONS WHY THE QUESTION PRESENTED ARE SO SUBSTANTIAL AS TO REOUIRE PLENARY CONSIDERATION :

Reason No. (I) :

There is no Question in this case, that the defendant has been deprived, of all of his states rights, adbridged of his states constitutional rights, due process of law, right to a trial, EQual protection, property rights venue of court, party to but not a party of, injury there from, in the state courts, and their appellate coutrs, and the suprmem court

REASON NO. (2) :

There is no Question, that defendant has been deprived of all his state rights, adbridged of his state const. right, due process of law right to a trial, EQual protection, property rights, venue of his court, party to the action but not a party to, injury there from, in the state mandus, petition of mandate, that the state in this case to administrate

the law, to uphold the constitution, and to do the many things that now need to be done.

REASON NO. (3) :

There is no Question that defendant now as plaintiff has been deprived of all his state and federal rights, adbridged of state and federal constitutional rights, due process of law, right to a trial, void default judgment, EQual protection, property rights, venue of the court, party to but not a party of injury therefrom up to this time.

REASON NO. (4) :

There is no Question that the way the court,s passed upon this case, up to this time, has been a violation of their own rules, abuse of decretion, not in conformity to law, infraction of the law, unlawfull proceeding, contrary to law, to deceive the systerm of justice, plagued by the deficiencies of justice.

REASON NO. (5) :

There is no Question, that this case should

not end in the manner that the courts have mandated up to this time,is it justice or injustice, lawfull or unlawfull, constitutional or unconstitutional, due process or lack of due process, trial or no trial, property rights or no property rights, deprived of citizsns rights or no deprived rights the court denied or the court should not deni is now so substantial, that there is nothing substantial in these past decision of the court, one cannot find in looking thoughout the records of the entire case to maintain a unifromity, a furtherance of justice, the furtherance of campanion cases, but a crusade of court malpractice, each court somshow adding to the malpractice in its own distinctice way each court adding to the complicity of their prejudice againts the litigant, up to this time, as to now Question the whole legal systerm, in there performace in this case, as to Question the way in which the court acted

REASON NO. (6) :

The Question is now, that it reQuires, that the Honorable U.S. Supreme Court is needed to do the many things that now need to be done in this case, and so substantial, on a fundamental point, issue of law, up to this time, as to what is justified from this time on.

REASON NO. (7) :

The Question now being, that the Honorable U.S. Court shall now rise to the issue of the law, to secure the many particular federal Question to uphold the const. to maintain unformity, furtherance of justice, as a matter of right, as a matter of law, and as a Question of law.

REASON NO. (8) :

The issue being, as a matter of right, and so substantial, the Honorable U.S. Supreme Court to challenge this appeal, on a fundamental right as to AD-HOC their decision in this case, that the default, default judgment be set aside,

that the case be dismissed with prejudice in the court of first appearance, that the defefendant has been injured, that the appellant prays for this decision.

THE FINAL QUESTION :

In what prehaps can be called the final Question of this case, is the Question of the betrayed systerm of justice, it can no longer go unoticed, that the Question of this appeal to this court, is the complete adbandonment of the Question of law, as a matter of law, as a matter of right, of a defendant,s right to have a defective, default, default judgment, which in fact is a void, a nullity to its self, and of no effect as such, to be set aside, that upon examination of the records, and other such materials it clearly shows, that the court of the first appearance, somehow, seeming incapble to administrate the case, failed to uphold the law, failed to uphold the constitution, in its decision to grant

this default, that gave birth to this appeal there is no Question that this default action by this court shall be set aside as such, regarding the Question of higher courts somehow dening subject matter jurisdiction as such can also be attributed, that somehow they have based their dscision on the un-trueth of the case, to plagued them selfs with the deficiencies of accountability, with the complete adbandonment of the Question of law presented to them, that these courts somehow add to the Question of there failing to uphold the jurisdiction of the judicial systerm, the constitutional rights of the defendant, this appeal clearly stands as a Question of jurisdiction of a citizen,s constitutional rights, due process of law, EQual rights, property rights the final Question being that there is no plain, speedy, or adeQuate remendy in the ordinary course of law, other than by this appeal to this Honorable Supreme Court, that

the appellant, as a Question of law, calls for the prefection of the default, default judgment be set aside, that the case in the court of first appearance be dismissed with prejudice, that I have a clear and precise right for issuance of this decision, I declare, that the fore going appeal, the contents there of is true and correct of my own knowledge, except as to matters which are therein stated upon my information and belief, and as to those matters I believe it to be true, I declare, under penalty of perjury, under the laws, that the fore going is true and correct, executed with signature to this appeal.

RESPECTFULLY SUBMITTED O. R. KARST

BY. O. R. Karst

OF COUNSEL : PRO SE

O. R. KARST, 910 Pierce Street

Albany, Ca. 94706, Tele-415-526-8500

APPENDIX

APPEBDIX: TABLE OF CONTENTS

I	U.S. Court of appeals for the Ninth Cir	A-I - A-6
2	U.S. District Court, Northern district of Calif.	B-7 - B-9
3	Superior Court, Sonoma Counrty State of Calif.	C-I0 C-I9
4	Law Office	D-20 D-2I
5	Notice of Appeals	E-22 E-24
6	Statutes Involed	F-25
7	LIS-PENDENS	G-26 G-27

APPENDIX A

ORDER OF THE U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

No 86 2686
DC # cv 86 3835 EFL
N cal (San Francisco)

O. R. KARST-Appellant

V

JOHN WOODS,-Appellee.

Before; WALLACE, SCHROEDER AND BEEZER, Ci. Jdg

The petition for rehearing of jun 24 I987 is denied, and the suggestion for rehearing en-banc is rejected. Filed Aug II I988.

DISCUSSION

That the above named circuit judges with the denial of the petition let stand the order of the summary affirmance dated jun II I987 of the same court.

Filed Aug II I988.

APPENDIX A

ORDER OF THE U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 86 2686
DC # cv 86 3835
N cal (San Francisco)

O. R. KARST - Appellant,

V

JOHN WOODS - Appellee.

Before; KENNEDY, ANDERSON, CANBY,Cir. Judges

The motion for summary affirmance is granted United States V Hooton, 693 F2d 857 9Cir 82

Filed Jun II I987.

United States V Hooton No. 82-I44I U.S. Court of appeals, ninth cir, "In-part"-"The court held that; (I) motions to affirm should be confined to appeals obviously controlled by precedent; (2) trial court did not abuse its discretion in denying reQuest for early termination; (3) denial of reQuest would be summarily affirmed." "AFFIRMED"

Before Goodwin, Anderson, Boochever, CI. Judges

PER CURIAM: "We granted the Gov,s motion for summary affirmance in this case, but denied similar motions in other cases, we issue this opinion to clarify our postion on such matters, a motion to affirm a final judgment should onley be filed where it is manifest that the Question on which the decision of the cause depends are so unstantial as not to need

futher argument S. Ct. R. I6 (I)(c) see Page V United States 356 F2d 339, although it is difficult to formulate a precise standard, not every case in which appellant files an unimpressive brief is appropriate for summary affirmance, motion to affirm should be confined to appeals obviously controlled by precedent and cases in which the insubstantaility is manifest from the face of appellant,s brief, where the outcome of a case is beyond dispute a motion for summary disposition is of obvious benefit to all concerned, similarly where the outcome is not so clear such a motion unduly burdens the parties and the court and ultimately may even delay disposition of the appeal we will not therefore ordinarily entertain a motion to affirm where an extensive review of the record of the district court proceedings is reQuired our recent denials of a number of motions to affirm were based on such considerations. in the in stant appeal Hooton was con victed of unlice nsed dealing of firearms and was sentenced to three years probation subject to a number of conditions including performance of 300 hours of community service he filed a reQuest that probation be terminated upon completion of the community sevvice the district court treated the reQuest as a rule 35 motion for reduction of the sentence and denied it Hooton,s opening brief on appeal is a one-page document in which he reQuests this court to reduce his sentence the denial of Hooton,s reQuest for early termination of probation was not an abuse of discretion "AFFIRMED"

DISCUSSION

In regard to this case, it being a fact,

that appellant,s brief of 23 pages and I50

pages of excerpts reQuired extenaive review, such consideration would of course reQuire denial of the motion to summary affirm, it being well settled from the records and the pleadings, that this case involes the denied jurisdiction of a defendant to his day in court, who had made an apperance, but was denied, the venue of his court, a trial, decision therefrom, his right to defend him self at his default hearing, his right to set aside a default judgment taken at a un noticed default hearing, right to have a void default judgment set aside in state and federal courts C.C.P.section 473 F.R.C.P.rule 55 (c) (2) and 60 (b) (4) U.S.Ccnst. articule III, Const. ad. 5th,7th,I4th, U.S.C.Title 28 Sect I443, Ti. 42 I983 I988, F.R.C.P.Rule 3 4 5 7 8 9 II I7 38 And that this U.S.Court of appeals erred in its order to grant summary affirmance, to abuse their discretion, to be clearly erroneous, by reason stated above, and with implycation of

different set of facts, and the evindence, that in this case, before the U.S.Court of appeals, 9 th Ci. that Mr Woods was in fact in default in U.S.District court, that he had failed to answer the summons, failed to answer his complaint, and for this reason, his motion of dismissal in district court was a moot motion under the U.S.District court, N district of Ca. rules, and that this U.S.Court of appeals was erroneous to summary affirm litigation that was of default under the rules, and this decision certainly is one of reverseable at this time, the precedent of this criminal case listed above doe not lend its self to my appeal it being futher erronoues in my case to imply that Hooton,s precedent is the same precedent of res judicata of state courts, that this precedent does not lends ite self, or is final againts a infraction of the law, final againts a defective default judgment, final againts a trial when there was no trial,that there

judgment rendered was unconscionable and failed to uphold the uniformity of campanion cases as well as the constitution.

APPENDIX B

Order of the U.S. DISTRICT COURT

Northern District of California

No.-C-86-3835 EFL
sc # I3II22

O. R. KARST - Plaintiff,

V

JOHN WOODS - Defendant.

It is ordered that the motion of defendant to the action for lack of subject matter jurisdiction be hereby granted, and that the complaint be and is hereby dismissed

Before; Judge of the U.S. District Court

EUGENE F. LYNCH

Dated Sep I5 I986

DISCUSSION

In regards to this order, it being a fact, that from the onset of this case, that judge Lynch had been provided with the proper pleadings and objection, that the defendant Mr Woods had not answered his summons, had not

answered the coplaint, that he was totalley in default, that his motion to dismiss was Illegally insuficient under District Court rules, and that all of defendant Woods,s motions and other litigation heared on sep I2 I986 had been vacated by Chief Justice Peckham, and had not been renoticed for a hearing, that with the vacated litigation Judge Lynch,none the less proceeded , defying the vacated order of the chief Justice, as to malpractice this case, as to erronoues rule, to grant defendant Woods motion to dismiss with prejudice, when in fact, the motion was in default, and had been vacated to a new date, and was not of this hearing, futher more that I had provided the court of a new motion of a default againts the defendant mr Woods for his failure to anawer the summon Judge Lynch somehow did not act on this motion, as to somehow Qush it from the records as to claim an unawareness, failing to admin-

istrate the litigation before him, overriding the facts, to impeade justice, as to now rule that my case is meritles, to imply there is no jurisdiction in a federal court, and to dismiss the case, that this is in fact an revocable error, contray to law, a failure to uphold the constitution, that the case in District Court was one of Mr Karst,s right to set aside in Federal District Court a default, default judgment taken againts him at his un-noticed default hearing in a state court, to his constitutional rights, that the state had adbridged under F.R.C.P. rule 55 (c) (2) and 60 (4), this jurisdiction preserved and protect in Federal District Coutrs

APPENDIX C

Order of the SUPERIOR COURT

SONOMA COUNTY

STATE OF CALIFORNIA

No. I3II22

JOHN WOODS - Plaintiff,

V

O. R. KARST - Defendant.

Order; to the aboved named defendant O.R.Karst it is hereby ordered, that hearing on the motion to strike answers with reQuest to enter default judgment shall be set and heard on Dec 29 I983, this court, Santa Rosa, Calif., this order shall be served on defendant by delivering a copy of it together with a copy of the attached notice of motion at least five 5 days prior of said hearing.

Before; and signed, Judge of the Superior Court

Judge WILLIAM L. BETTINELLI

Dated Dec I6 I983.

DISCUSSION

It being well settled from this document that the defendant Mr Karst shall be served with this order at least five days prior to his default hearing, it also is well settled that defendant Mr Karst was not served with this order, and that defendant was thus denied, due process of law, his judicial rights under state and federal constitution, clearly an revocable error, that lead to the Illicit default, default judgment.

APPENDEX C

Law and Motion Proceedings

SUPERIOR COURT

SONOMA COUNTY

STATE OF CALIFORNIA

No. I3II22

JOHN WOODS - Plaintff,

V

O. R. KARST - Defendant.

Law and motion calendar action No. I3II22, motion to strike answers with reQuest to enter defaul judgment and to fix attorneys fees, defendant is not present, Mr Simmons address the court; court makes the following order, two documents entitled answers to complaint filed Dec (I983, and one document entitled answer to complaint filed Dec I2 I983, all these document will be striken Ex Parte of the court for reason stated in open court court grants the motion to strike without

leave to amend and enters the default againts O.R.KARST in relation to the complaint, court sets this matter tentatively on the default calendar of Jan I3 I984 for hearing default.
HEARED: before Judge WILLIAM L. BETTINELLI
DATED: Dec 29 I983

DISCUSSION

It being well settled from this document, that the defendant Mr O.R. KARST was not present at his default proceedings, that this court abused their discretion, in the denial of the defendant,s right to defend him self, right to be noticed to appear, due process of law, his constitutional of the state, federal rights, that this action has given birth to a void default, default judgment, a nullity to its self, that becomes an revocable error comitted by this court.

APPENDIX C

ORDER OF THE SUPERIOR COURT

SONOMA COUNTY

STATE OF CALIFORNIA

No. I3II22

JOHN WOODS - Plaintiff,

V

O. R. KARST - Defendant.

ORDER: striking answers and directing entry of default "IN PART" it is hereby ordered that the aboved referenced document filed Dec 9 I983 and Dec I2 I983 shall be and are hereby ordered stricken without leave to amend, it is futher ordered that defendant,s default shall be and is hereby entered.

BEFORE: and signed JUDGE OF THE SUPERIOR COURT

JUDGE WILLIAM L. BETTINELLI

DATED Dec 30 I983

DISCUSSION

It is well settled with this document in the

court; order directing entry of defendant MR O.R.KARST default,hereby ordered, that with this order, the court denied the defendant,s his rights, to due process of law, to his state and federal constitutional rights, statutes law anr rules, that this court abused there discretion, failed to up hold the constitution failed there obligation to administrate the law, to have comitted this revocable error.

APPENDIX C

DEFAULT JUDGMENT PROCEEDINGS

SUPERIOR COURT

SONOMA COUNTY

STATE OF CALIFORNIA

No I3II22

JOHN WOODS - Plaintiff,

V

O. R. KARST - Defendant.

Default judgment action No. I3II22 plaintiff is present with counsel defendant is present the court determines that the document that the document filed by the defendant entitled declaration ete is to be construed as a motion to set aside the default and such motion is here denied, the court that the plaintiff may proceed with the default hearing attorney fee marked plaintiff exhibit No 2 in evidence it is order that plaintiff have judgment as prayed, BEFORE JUDGE WILLIAM B. BOONE,Jan I3 I984.

DISCUSSION

It is well settled with this document, that the court determines to proceed with the default of defendant MR O.R.KARST, taken at his un- noticed default hearing, there denial at this hearing to set aside the default, is an abuse of there discretion, as to deni the defendant of due process of law, of his right to a trial, his rifgt to be noticed, his state and federal constitutional right, statutes law and rules, clearly a failure to uphold the constitution, that now becomes an revocable error, comitted by this court.

APPENDIX C

ORDER DENYING TO SET ASIDE DEFAULT

SUPERIOR COURT

SONOMA COUNTY

STATE OF CALIFORNIA

No. I3II22

JOHN WOODS - Plaintiff,

V

O. R. KARST - Defendant.

IN PART: ORDER: of 6 pages denyiny defendant,s motion to set aside his default, default judgment, based on the opinion (I) there had not a copy of answer proposed (2) court has the power to strike on its own, a pleading deemed to be impriper, the motion to set aside defaault judgment is denied.

Judge of the Superior Court

JOESPH P. MURPHY JR.

DATED: June 4 I984

DISUSSIOM

It is well settled with this document that this court determines to proceed with the defective default judgment, as to abuse their discretion failing to uphold the constitution, that the court has denied defendant of due process of law with this denial to set aside a default judgment taken at a un noticed default hearing, that now becomes an revocable error comitted in this court.

APPENDIX D

LAW OFFICE OF
Attorney for Plaintiff
DEREK J. SIMMONS
Santa Rosa California

No. I3II22

JOHN WOODS - Plaintiff,

V

O. R. Karst - Defendant.

JUDGMENT: In part - 6- Page document "GLEANED" that judgment came on heard Dec I I983 on motion to strike pleadings and for judgment, defendant appeared without attorney, granted motion to strike all pleadings withresponcesive pleading before Dec I2 I983 judgment cause again on hearing Dec 28 I983 plaintiff appeared, and having failed in five attemps at service the defendant did not appear, court ordered defendant answers stricken and entry of defendant,s default, court entered default judgment Jan I3 I984, it is orered, adjudged,

and decreed, that defendant is in default, reasonable attorney fee of $ 5787.50,

DATED: Jan I3 I984 book; 247 page; I5I

SIGNED DOCUMENT:Judge of Superior Court,

Judge WILLIAM L. BOONE

DISCUSSION

It is well settled from this document of six pages that it was signed by Judge Boone, that this court abused their discretion, in this action by allowing the plaintiff a judgment without a trial on the merits of a untrial judgment, taken at a unnoticed default hearing, that the court futher denied the defendant of due process of law, his state and federal constitutional rights, statutes, law and rules, as to have committed an Illicit, void judgment, that now becomes an revocable error.

APPENDIX E

NOTICE OF APPEAL

SUPERIOR COURT

STATE OF CALIFORNIA

No. I3II22
I civil a 027582

JOHN WOODS - Plaintiff,

V

O. R. KARST - Defendant.

Please take notice that O. R. KARST filed a notice of appeal in the above entitled action, and hereby appeals to the court of appeal first appellate court district, state of California.

ATTEST: EEVE T. LEWIS, COUNTY CLERK

DATED: June 8 I984

DISCUSSION

Defendant sought to challenge his default Jud-- gment, committed as a revocable error in the Appeals Court.

APPENDIX E

NOTICE OF APPEAL

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

C 86 2686
DC No cv 86 3835 EFL

O. R. KARST - Appellant,

V

JOHN WOODS - Appellee.

THAT O. R. KARST APPELLANT: Hereby appeals to the U.S. Court of appeals for the ninth circuit from the orders entered in this action

EXECUTED: O.R. KARST APPELLANT

FILED: Oct I 1986

DISCUSSION

That the appellant sought to challenge the defective default, default judgment committed as a revocable error in the court.

APPENDIX E

NOTICE OF APPEAL

TO THE SUPREME COURT OF THE

UNITED STATES

Sc No I3II22
Ac No I civil A 027582
DC No. cv 86 3835 EFL
USAC 9th 86 2686

O. R. KARST - Appellant,

V

JOHN WOODS - Appellee.

NOTICE GIVEN, THAT O. R. KASRT, APPELLANT: apeals to the U.S. SUPREME COURT from a defendant,s defective final default judgment from the U.S. Court of appeals (9th cir) petition for rehearing of June 24 I987 and denied Aug II I988

EXECUTED O. R. KARST APPELLANT

FILED : Oct I7 I988 CLERK: U.S. Court of appeals 9 th Circuit

DISCUSSION that appellant seeks to challenge default, comitted as revocable error.

APPENDIX F

STATUTES INVOLVED

SC No. I3II22
Ac No. I civil a 027582
DC No. cv 86 3835 EFL
~~USAC-9th-86-2686~~

O. R. KARST - Appellant,

V

JOHN WOODS - Appellee.

I State of Cal. constitution

2 Cal C.C.P. sections 473 430 422

3 U.S.Constitution articule III

4 U.S. Const amend. 5th, 7th, I4th.

5 U.S.C. Title 28 section I443

6 U.S.C. Title 42 sec I982 I983 I988

7 F.R.C.P. Rules 3 4 5 7 8 9 II I7 38
55 (c) (2) 60 (b) (4)

8 U.S. District Court,Northern District
of California
Rules - "through out"

APPENDIX G

LIS-PENDENS

SUPERIOR COURT

SONOMA COUNTY

STATE OF CALIFORNIA

No. I3II22

JOHN WOODS - Plaintiff,

V

O. R. KARST - Defendant.

NOTICE OF ACTION PENDING: C.C.P. section 409 take notice that this action is now pending in court, defendant O. R. KARST, seeks relief affecting title to his property, this cross action, that the plaintiff John Woods by signed agreement, that if the need to sell his one-half share, shall arise that the plaintiff John Woods then shall sell to O. R. KARST for cash.

EXECUTED IN OFFICIAL RECORDS RECORDER TUOLUMNE COUNTY, STATE OF CALIFORNIA

DATED: Jan I0 I984 Vol 737 Page I04

DAVID W. WYNNE Recorder

BY O. R. KARST DEFENDANT Dec 2I I983

DISCUSSION

It being well settled that defendant O. R. KARST, early on recorded this "LIS-PENDENS", that this document shall serve as protection to his property rights, that plaintiff John Woods shall sell to Defendant O. R. KARST, this cross action duely protected and preserved this action.